

MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT AUTHORIZATION

MAY 18, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 2449]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 2449), to amend title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982, 1983, and 1984, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 2, line 2, delete "\$2,250,000" and insert in lieu thereof "\$2,235,000".

On page 2, line 4, delete "years 1983 and 1984," and insert "year 1983,".

Amend the title so as to read:

To amend title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982, and 1983, and for other purposes.

PURPOSE OF THE LEGISLATION

H.R. 2449 would amend Section 304 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, to authorize funds not to exceed \$2,235,000 for fiscal year 1982 and such sums as may be necessary for fiscal year 1983.

COMMITTEE ACTION

H.R. 2449 was introduced on March 11, 1981 by Mr. D'Amours and Mr. Jones of North Carolina. The bill was referred to the Committee on Merchant Marine and Fisheries and was further referred jointly to the Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

On March 12, 1981, the two subcommittees held a joint hearing on H.R. 2449, receiving testimony from the National Oceanic and Atmospheric Administration, a panel of state government representatives, a panel of public witnesses, a panel of industry representatives, a panel of environmental representatives, and a panel of scientific witnesses.

On March 17, 1981, the subcommittees met in joint session and ordered H.R. 2449 reported with an amendment by voice vote. As introduced, H.R. 2449 authorized appropriations not to exceed \$2,250,000 for fiscal year 1982 and such sums as may be necessary for fiscal years 1983 and 1984. Mr. Breaux offered an amendment to reduce the authorization level to \$1,000,000 for fiscal year 1982 and delete appropriations authority for fiscal years 1983 and 1984. Mr. Pritchard offered an amendment as a substitute to Mr. Breaux's amendment. The effect of the substitute was to raise the authorization level to \$2,250,000 for fiscal year 1982. Mr. Studds offered an amendment to Mr. Pritchard's substitute to authorize \$2,250,000 for each of fiscal years 1982 and 1983. Mr. Studds' amendment failed by division vote of 4 ayes, 8 nays. The Pritchard substitute to the Breaux amendment was adopted by voice vote. The Breaux amendment, as substituted by Mr. Pritchard, passed by voice vote.

On April 30, 1981, the Committee on Merchant Marine and Fisheries met in open session on H.R. 2449. The Committee adopted a single amendment by Mr. Pritchard to authorize an appropriation of \$2,235,000 for fiscal year 1982 and such sums as may be necessary for fiscal year 1983 by voice vote. This amendment was consistent with the official administration position, which was not finalized until after the subcommittee markup. H.R. 2449 was ordered reported to the House by voice vote.

BACKGROUND AND NEED FOR THE LEGISLATION

The National Marine Sanctuaries Program was created with the enactment of Title III of the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972. The MPRSA provides for the protection of unique or distinctive marine and Great Lakes areas for their conservation, recreational, ecological or esthetic values. The Secretary of Commerce is authorized to designate such areas as marine sanctuaries and to issue regulations governing permitted activities within sanctuaries. The National Oceanic and Atmospheric Administration (NOAA) manages the program.

The marine sanctuary program was enacted to protect discrete ocean areas that are important for their conservation, recreational, ecological, or esthetic values. An integral part of this protection involves the regulation of multiple uses within those areas to ameliorate the conflict

among, and to minimize any potential harm to these values from, activities associated with such uses. It is the intent of the Committee that any regulations promulgated pursuant to Title III shall be consistent with this purpose.

Although the original Act was passed in 1972, the program received no direct appropriation until 1979. During 1977 and 1978, the program operated on a small amount of reprogrammed funds. Only two sanctuaries had been designated by 1975: the site of the sunken Civil War iron-clad *Monitor* off Cape Hatteras, North Carolina and Key Largo National Marine Sanctuary, a coral reef structure off the southern tip of Florida.

President Carter established Title III as a priority program in a May 23, 1977 environmental address. The President directed the Secretary of Commerce to begin gathering information on areas of the outer continental shelf where development was imminent and to determine whether sanctuaries should be designated. In response to President Carter's address and the increased emphasis placed on the program, NOAA received almost 200 sanctuary nominations from Federal agencies, States and members of the public.

Congressional concern over the scope of the program, the size and number of sanctuaries, the activities to be regulated, and the goals and management of the program resulted in a series of amendments during the 96th Congress. The 1980 amendments established improved consultation and coordination procedures; set forth requirements for the terms of sanctuary designations; established the validity of permits, licenses, and authorizations issued pursuant to other authorities unless specifically prohibited by sanctuary regulations; directed the Secretary of Commerce to conduct research to carry out the purposes of the Title; directed the Coast Guard and the Secretary of Commerce to conduct enforcement activities; provided for the Governor of any State whose waters are included in a sanctuary to disapprove sanctuary regulations in those waters; and established a Congressional disapproval procedure for sanctuary designations.

With the clarification of program objectives, the first direct appropriation of funds in fiscal year 1979, experience gained in managing existing sanctuaries, a conscientious effort by NOAA to respond to concerns, and a more careful consideration of areas recommended for sanctuary designation, improvements have resulted in the overall administration of the marine sanctuary program. These improvements have been reflected to some degree during the designation of four new marine sanctuaries in 1980 and early 1981.

The Channel Islands National Marine Sanctuary, designated in September, 1980, includes the waters and several island groups encompassed in a 1252 square mile area off southern California. This area is productive due to upwellings caused by the interaction between two major ocean current systems. The sanctuary provides habitat for a large and varied marine mammal assemblage and a diverse seabird community, including a number of endangered species.

The Point Reyes-Farallon Islands National Marine Sanctuary off-shore and north of San Francisco, California, the Gray's Reef National Marine Sanctuary east of Sapello Island, Georgia, and the Looe Key National Marine Sanctuary southwest of Big Pine Key, Florida all

were designated in January, 1981. The Point Reyes-Farallon Islands site includes an area of 948 square miles which is noteworthy for marine mammal populations and for supporting the largest seabird rookery in the contiguous United States. The Gray's Reef Sanctuary was designated to protect a live bottom area notable for a diverse array of temperate and tropical corals, sponges, reef and game fish, and sea turtles. The nearshore location of Gray's Reef contributes to the value of this site for recreational and scientific activities. Looe Key is a five square mile site which includes a spur and groove coral formation and a diverse and abundant reef community.

Additional sites currently being considered as active candidates for marine sanctuary designation include Monterey Bay off California, waters near St. Thomas in the Virgin Islands, three sites near Puerto Rico, the Flower Garden Banks in the Gulf of Mexico, and Waters off Maui, Hawaii.

Further refinements in the implementation of the sanctuary program are anticipated in light of a recently proposed Program Development Plan. This plan, presented in testimony during the March reauthorization hearing, describes the current management philosophy behind the program and proposes several administrative changes. The changes will place earlier and greater importance on the management plans for individual sanctuaries and will restructure the nomination and selection process which has caused unnecessary confusion in the past. Implementation of the plan will require the promulgation of new regulations.

Funds authorized under this legislation will be used to manage the six presently designated sanctuaries and to review and assess active sanctuary candidate sites.

Regulations pertaining to hydrocarbon development within the Point Reyes-Farallon Islands and Channel Islands sanctuaries have been temporarily suspended pending the outcome of an economic review of the regulations. In accordance with the MPRSA, sanctuary designations do not become effective until the expiration of a congressional review period of 60 calendar days of continuous session of Congress from the date of their transmittal to Congress. Regulations for the Channel Islands sanctuary were published on October 2, 1980 and regulations for the Point Reyes-Farallon Islands sanctuary were published on January 26, 1981. The congressional review periods for both sets of regulations were still running on January 29, 1981 when President Reagan ordered a 60-day suspension of pending regulations. In response to this order, NOAA amended the regulations to provide that the effective date of the Channel Islands regulations would be delayed until March 30, 1981, and regulations for the Point Reyes-Farallon Islands sanctuary would become effective upon the expiration of the congressional review period on April 5, 1981.

A second Executive Order on February 17, 1981 directed Federal agencies to further suspend or postpone effective dates of any pending "major" regulation in order to reconsider the regulation in accordance with the objectives of Executive Order 12291 and to prepare a Regulatory Impact Analysis.

NOAA determined that those regulations which would directly prohibit or have the effect of prohibiting hydrocarbon development within the Channel Islands and Point Reyes-Farallon Islands sanctuaries

aries (15 CFR 935.6, 935.7 and 936.6) were "major" regulations within the meaning of the Executive Order and they were suspended until April 30, 1981. The remainder of the regulations for those sanctuaries became effective on March 30, 1981 for Channel Islands and on April 5, 1981 for Point Reyes-Farallon Islands.

On April 29, 1981, NOAA announced that the suspended regulations would continue to be suspended until the economic review is completed. The analysis of the costs and benefits to the nation which would result from imposing the prohibitions on hydrocarbon activities may take up to six months.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill amends section 304 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, to authorize the appropriation of up to \$2,235,000 to carry out the purposes of title III of such act for fiscal year 1982 and such sums as may be necessary for fiscal year 1983.

COST OF THE LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates the cost of H.R. 2449 to the Federal Government to be \$2,235,000 for fiscal year 1982.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause (2) (1) (4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment of H.R. 2449 would have no significant inflationary impact upon prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause (2) (1) (3) (A) of Rule XI of the Rules of the House of Representatives, no oversight findings or recommendations on the subject of H.R. 2449 have been made by the Committee during the 97th Congress. Two days of authorization and oversight hearings were held during the 96th Congress on the MPRSA. The Committee received progress reports on the implementation of Title III of the MPRSA at those hearings, as well as at the authorization hearing held regarding this bill, H.R. 2449. These oversight activities will continue during the 97th Congress.

2. With respect to the requirements of clause (2) (1) (3) (D) of Rule XI of the Rules of the House of Representatives, the Committee has received no report from the Committee on Government Operations on the subject of H.R. 2449.

3. With respect to the requirements of clause (2) (1) (3) (B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2449 does not contain any new budget authority or tax expenditures.

4. With respect to the requirements of clause (2) (1) (3) (C) of Rule XI of the Rules of the House of Representatives and section 403 of the

Congressional Budget Act of 1974, the Committee has received the following estimate of the cost of H.R. 2449 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 5, 1981.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 2449, a bill to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982 and 1983, and for other purposes.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 2449.

2. Bill title: A bill to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982 and 1983, and for other purposes.

3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 30, 1981.

4. Bill purpose: The bill authorizes appropriations for fiscal years 1982 and 1983 for the establishment and maintenance of marine sanctuaries in the Coastal Zone Management Program of the National Oceanic and Atmospheric Administration (NOAA).

Appropriations for the marine sanctuaries program were \$1.8 million in fiscal year 1980 and \$2.3 million in fiscal year 1981. The President has requested \$2.2 million for fiscal year 1982 for this program.

5. Cost estimate:

Authorization level:

Fiscal year:	Millions
1982	\$2.2
1983	2.5
1984	
1985	
1986	

Estimated outlays:

Fiscal year:	
1982	1.8
1983	2.4
1984	.5
1985	
1986	

¹ The bill authorizes such sums as may be necessary for fiscal year 1983.

The costs of this bill fall within budget function 300.

6. Basis of estimate: This bill authorizes the appropriation of \$2.2 million for fiscal year 1982 and such sums as may be necessary for fiscal year 1983 for the marine sanctuaries program authorized in title III of the Marine Protection, Research, and Sanctuaries Act of 1972. The fiscal year 1982 authorization level is that stated in the bill. To estimate the fiscal year 1983 funding, the 1982 level was inflated using CBO economic assumptions. It was further assumed that all funds authorized would be appropriated by the beginning of each fiscal year.

Based on information from NOAA and historical data for this program, it is estimated that spending will occur at a rate of 80 percent in the first year and 20 percent in the second. This rate assumes continuation of existing obligation and spending patterns.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 22, 1981, a CBO cost estimate was prepared for the version of this bill ordered reported by the Senate Committee on Commerce, Science, and Transportation, April 7, 1981. That bill specifically authorized \$2.2 million in each of fiscal years 1982 and 1983.

9. Estimate prepared by: Debbie Goldberg.

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum, Assistant Director for Budget Analysis).

DEPARTMENTAL REPORTS

The committee received departmental reports on H.R. 2449 from the Department of Commerce in the form of an Executive Communication, and from the Environmental Protection Agency. The reports read as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., April 3, 1981.

HON. WALTER JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is one copy of a draft bill: to amend Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982 and 1983 and for other purposes, together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Enclosure.

A BILL To amend Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982 and 1983 and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. Sec. 1434) is amended—

- (1) by striking out "and" immediately after "fiscal year 1978";
- (2) by inserting a "," between "1978" and "not"; and
- (3) by adding immediately after "fiscal year 1981" the following: ", and not to exceed \$2,235,000 for the fiscal year ending September 30, 1982 and such sums as may be necessary for the fiscal year ending September 30, 1983."

STATEMENT OF PURPOSE AND NEED

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. §§ 1431-1434, as recently amended by P.L. 96-332, authorizes the Secretary of Commerce, after consultation with all interested Federal agencies and after obtaining the approval of the President, to designate as marine sanctuaries ocean areas as far seaward as the outer edge of the Continental Shelf, other coastal waters where the tide ebbs and flows, and areas of the Great Lakes which have conservation, recreational, ecological or esthetic value. Six marine sanctuaries have been designated to date: the U.S.S. Monitor Marine Sanctuary off the coast of North Carolina; the Key Largo Coral Reef Marine Sanctuary off the coast of Florida; the Channel Islands National Marine Sanctuary off the coast of California; Gray's Reef National Marine Sanctuary off the coast of Georgia; Point Reyes/Farallon Islands National Marine Sanctuary off the California coast; and Looe Key National Marine Sanctuary off the coast of Florida.

Section 304 of the Act presently authorizes \$2,250,000 to be appropriated for fiscal year 1981. Reauthorization is proposed for an additional 2 years at a level of \$2,235,000 for fiscal year 1982, and such sums as may be necessary for fiscal year 1983.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., April 20, 1981.

HON. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Environmental Protection Agency on H.R. 2449, to reauthorize title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended.

The Environmental Protection Agency supports the reauthorization of title III, which establishes the Marine Sanctuaries Program under the National Oceanic and Atmospheric Administration (NOAA). This program provides a comprehensive management approach to preservation and protection of selected habitats and other ecologically important marine areas.

The bill now before the Committee for consideration includes a one-year reauthorization. We understand that, although the Administration plans to review the program in the context of the 1983 budget and may propose amendments, the Administration has recommended a two-year reauthorization of the Program. We support the Administration's proposal and recommend the Committee amend the pending bill to provide a two-year reauthorization period.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

WALTER C. BARBER, Jr.,
Acting Administrator.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is *rinted in italic*, existing law in which no change is proposed is shown in roman) :

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972, AS AMENDED

(16 U.S.C. 1434)

SEC. 304. There are authorized to be appropriated not to exceed \$10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed \$6,200,000 for fiscal year 1976, not to exceed \$1,550,000 for the transition period (July 1 through September 30, 1976), not to exceed \$500,000 for fiscal year 1977, not to exceed \$500,000 for fiscal year 1978, **[and]** not to exceed \$2,250,000 for fiscal year 1981, *not to exceed \$2,235,000 for fiscal year 1982, and such sums as may be necessary for fiscal year 1983*, to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.